

Appl. No. 09/620,572
Amdt. dated Nov. 16, 2006
Reply to Office action of May 16, 2006

REMARKS/ARGUMENTS

Claims 1-4, 9-12, 15-16, 18-19, 21-22, 24-28, 30-35 and 37-45 are pending in the application. Claims 20, 23 and 36 are hereby cancelled without prejudice. Claims 43-45 are hereby added. Claims 5-8, 13-14, 17 and 29 were previously cancelled without prejudice. This amendment is being filed with a request for a three month extension. A credit card authorization form is enclosed to pay for the fees. The examiner rejected claims 1-4, 9-12, 15-16, 18-28 and 30-42 in the Office Action mailed May 16, 2006 (hereinafter referred to as "Office Action"). In view of the following remarks and amendments, applicant respectfully request a timely Notice of Allowance be issued in this case.

Support for the amendments can be found throughout the application. Applicant respectfully submits that no new matter is added by the amendments.

Claim Rejections under 35 U.S.C. § 112

The examiner rejected claim 42 under 35 U.S.C. § 112 as failing to comply with the written description requirement. Applicant respectfully submits that this rejection is moot based on the amendments to claims 42.

Claim Rejections under 35 U.S.C. § 103(a)

The examiner rejected claims 1, 9, 11, 15, 30 and 34-37 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,793,980 to Glaser in view of U.S. Patent No. 6,272,634 to Tewfik. The examiner also rejected claims 2-4, 10, 12, 28, 31-33 and 41 under 35 U.S.C. § 103(a) as being unpatentable over Glaser and Tewfik as applied to claims 1 and 9, and further in view of U.S. Patent No. 6,078,758 to Patton. In addition, the examiner rejected claim 16 under 35 U.S.C. § 103(a) as being unpatentable over Glaser and Tewfik as applied to claim 9, and further in view of U.S. Patent No. 6,338,044 to Cook. Moreover, the examiner rejected claims 18-19 and 25-27 under 35 U.S.C. § 103(a) as being unpatentable over Glaser in view of U.S. Patent No. 6,052,470 to Mouri. The examiner also rejected claims 20-24 under 35 U.S.C. § 103(a) as being unpatentable over Glaser and Mouri as applied to claim 18 and in further view of Tewfik. In addition, the examiner rejected claims 38-39 and 42 under 35 U.S.C. § 103(a) as being unpatentable over Glaser and Tewfik as applied to claim 1, and further in view of Gabriel Bouvigne's MP3 Glossary. Finally, the examiner rejected claim 40 under 35 U.S.C. § 103(a) as being unpatentable over Glaser, Tewfik and Patton as applied to claim 1, and further in view of Cook.

Unless the reference(s) teach or suggest all the claim limitations, obviousness cannot be found. MPEP § 2143.03. Further, once an independent claim is found to be non-obvious under 35 U.S.C. § 103, then any claim which depends from that independent claim is also non-obvious. MPEP § 2143.03; *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988).

Appl. No. 09/620,572
Amdt. dated Nov. 16, 2006
Reply to Office action of May 16, 2006

For the reasons stated below, applicant respectfully submits that the cited references do not disclose, teach or suggest all the claim elements of claims 1-4, 9-12, 15-16, 18-19, 21-22, 24-28, 30-35 and 37-45, as amended.

Claims 1, 9 and 18

With respect to claims 1, 9 and 18, applicant respectfully submits that Glaser and the other cited references do not disclose, suggest or teach, either alone or in combination:

converting said signals to a digital format using a first sampling rate and a first resolution; and

encoding said digitally formatted signals into a portable file at a second sampling rate and a second resolution wherein said second resolution is greater than said first resolution, a first data block is inserted into said added resolution, said second sampling rate is greater than said first sampling rate, a second data block is inserted into said added samples, and a first digital watermark comprises said first data block and said second data block.

As a result, applicant respectfully submits that claims 1, 9 and 18 are not obvious over the cited references and are, therefore, allowable under 35 U.S.C. § 103.

Claims 2-4, 10-12, 15-16, 21-22, 24-28, 30-35, 37-41 and 43-45

With respect to claims 2-4, 10-12, 15-16, 21-22, 24-28, 30-35, 37-41 and 43-45, applicant respectfully submits that claims 2-4, 10-12, 15-16, 21-22, 24-28, 30-35, 37-41 and 43-45 depend from claim 1, 9 and 18, which are allowable for the reasons stated above, and further distinguish over the cited references. Accordingly, applicant respectfully submits that claims 2-4, 10-12, 15-16, 21-22, 24-28, 30-35, 37-41 and 43-45 are not obvious over the cited references and are, therefore, allowable under 35 U.S.C. § 103.

Claim 42

With respect to claim 42, applicant respectfully submits that the cited references do not disclose, teach or suggest all the elements recited in claim 42 for the reasons stated above with respect to claim 1. More specifically, the cited references do not disclose, teach or suggest:

converting said signals to a digital format using a sampling rate greater than 44,100 samples per second and a resolution greater than 16 bits per sample; and

encoding said digitally formatted signals into a portable file at approximately 32,000 samples per second higher than said sampling rate and approximately 8 bits per sample higher than said resolution, a first

Appl. No. 09/620,572
Amdt. dated Nov. 16, 2006
Reply to Office action of May 16, 2006

data block is inserted into said added resolution, a second data block is inserted into said added samples, and a first digital watermark comprises said first data block and said second data block.

Accordingly, applicant respectfully submits that claim 42 is not obvious over the cited references, and is, therefore, allowable under 35 U.S.C. § 103.

Conclusion

For the reasons set forth above, applicant respectfully requests reconsideration by the examiner and withdrawal of the rejections. Applicant submits that claims 1-4, 9-12, 15-16, 18-19, 21-22, 24-28, 30-35 and 37-45 are fully patentable. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If the examiner has any questions or comments, or if further clarification is required, it is requested that the examiner contact the undersigned at the telephone number listed below.

Respectfully submitted,

CHALKER FLORES, LLP

By



Daniel J. Chalker

Reg. No. 40,552

Tel.: (214) 866-0001

Fax: (214) 866-0010

2711 LBJ Frwy, Suite 1036
Dallas, Texas 75234